

REMARKS

Receipt of the Office Action of September 11, 2007 is gratefully acknowledged.

Claims 1 - 14 have been examined. In fact claims 15 - 28 should have been examined as they were added by the Preliminary Amendment filed with the application on October 11, 2005 to replace claims 1 - 14.

The rejection of claims 13 will be considered as a rejection of claim 27 since claim 27 is essentially claim 13. This rejection is respectfully traversed.

The subject matter of claim 27 is found in Fig. 2 and discussed on page 5 in lines 12 - 20 and page 8, in lines 5 - 17 of the specification. The "purpose for arranging a measuring unit on an inclined plane" is really not relevant to a consideration of 35 USC 112, first paragraph. It is only necessary that it be described, which it is.

The rejection of claims 1 - 5 and 8 - 14 under 35 USC 103(a) over Durham et al, and of claim 7 under 35 USC 103(a) over Kawamura et al in view of Durham are noted. Since these claims are essentially claims 15 - 19 and 21 - 28, these rejections are considered to apply to these claims. These rejections are also respectfully traversed.

While Durham et al. discloses an apparatus for measuring the concentration of components in a fluid using a broadband light source as a transmitting unit - see column 5, line 39, the solution according to the present invention uses a transmitting unit which emits radiation in at least two discrete wavelength regions. The transmitting unit is controlled in a manner such that it alternately emits the electromagnetic radiation at these discrete wavelengths. Durham et al does not provide any hint to a skilled person in this direction. Durham et al. emits a broadband radiation which is analyzed by a spectrometer after passage through the fluid. The spectrometer consists of a polychromator and a linear photodiode array.

Durham and Kawamura et al are quite different from the present

invention. To sharpen the difference between the present invention and the references, claim 15 has been amended.

The indication that claim 16 contains allowable subject matter is gratefully appreciated. However, in view of the amendment to claim 15, the dependent status of claim 20 (original claim 16) has been retained.

In view of the foregoing, reconsideration and re-examination are respectfully requested and claims 15 - 28 allowed.

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Respectfully submitted,
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